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November 15, 2011

Via HAND DELIVERY

The Honorable Jo Bonner
Chairman
The Honorable Linda T. Sánchez
Ranking Member
U.S. House of Representatives
Committee on Ethics
1015 Longworth House Office Building
Washington, D.C. 20515-6328

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COMMITTEE ON ETHICS

Re: U.S. Representative Jesse Jackson, Jr.

Dear Chairman Bonner and Ranking Member Sánchez:

We represent Congressman Jesse Jackson, Jr. Please accept this letter as Congressman Jackson's response to the report and findings of the Office of Congressional Ethics ("OCE"), dated August 9, 2009 (the "OCE Report"). Congressman Jackson requests that if you determine that the Committee on Ethics is obligated to publicly release the OCE Report, you also publish this response.

Congressman Jackson respectfully submits that there is no basis for OCE's conclusion that he may have violated House rules or federal law and urges the Committee to close its investigation of this matter. First, Congressman Jackson did not direct or know of any offer to provide campaign funds to former-Governor Rod Blagojevich in exchange for Congressman Jackson's appointment to the Senate seat vacated by Barack Obama in 2008 (the "Senate Seat"). Instead, Congressman Jackson engaged in a public effort to gain the appointment on the merits. He made numerous media appearances in which he promoted his record as a Member of Congress and made the case for why he was the best choice for the Senate Seat. In addition, he instituted a letter-writing program in which he encouraged prominent members of the community to voice their support with Blagojevich. Congressman Jackson acted honorably at all times and did not violate any House rule or federal law in connection with the Senate appointment process.

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Second, Congressman Jackson did not improperly use his office staff and official resources to secure appointment to the Senate Seat. Congressman Jackson did not run a political campaign in the traditional sense contemplated by the House rules because there was no election. Rather, Governor Blagojevich had the authority to appoint someone to the Senate Seat, and Congressman Jackson took a series of actions designed to make his case for the position publicly and thereby convince Blagojevich to appoint him. Two of Congressman Jackson's senior aides volunteered small amounts of their own time to assist in his efforts in a manner permitted by the House rules. Although they provided this assistance in his congressional offices, using their official email accounts and other minimal official resources, their activities were analogous to the types of limited campaign activities that may properly take place in a congressional office under the House rules.

I. CONGRESSMAN JACKSON SOUGHT THE SENATE SEAT ON THE MERITS AND DID NOT DIRECT OR KNOW OF ANY OFFER TO RAISE CAMPAIGN FUNDS FOR GOVERNOR BLAGOJEVICH IN EXCHANGE FOR THE APPOINTMENT

In part one of its report, OCE alleges that Congressman Jackson may have violated federal law and House rules if an “emissary”—who allegedly offered to raise and provide campaign funds to former-Governor Blagojevich if Blagojevich appointed Congressman Jackson to the Senate Seat—acted at the direction of Congressman Jackson or with his knowledge or acquiescence. There is absolutely no basis for OCE's conclusion that Congressman Jackson may have violated House rules or federal law in connection with his efforts to obtain appointment to the Senate Seat.

On the contrary, Congressman Jackson sought appointment to the Senate Seat solely on the merits. Because he had a poor relationship with Blagojevich—due to past political differences and a history of rebuffing Blagojevich's “pay-to-play” politics—Congressman Jackson concluded that the only way he could gain the appointment was by making a public case based on his record as a United States Representative and his qualifications. Congressman Jackson took his case to the media and sought assistance from any and all sources to voice support for Congressman Jackson with Blagojevich.

Congressman Jackson never offered to raise campaign funds for Blagojevich in exchange for appointment to the Senate Seat. He never directed anyone to offer campaign funds on his behalf to Blagojevich. And he never knew that anyone had made such an offer on his behalf, until he read about those allegations following Blagojevich's arrest. Any allegation to the contrary is absolutely false and comes from sources with little credibility and a motive to implicate Congressman Jackson. Congressman Jackson vehemently denies engaging in any wrongdoing whatsoever in connection with his efforts to gain appointment to the Senate Seat and is prepared to invoke the Committee's adversarial processes, if necessary, to defend himself against such baseless allegations.

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A. Congressman Jackson Did Not Have A Good Relationship With Governor Blagojevich And Therefore Needed To Make His Case For The Senate Seat Publicly

By 2008, Congressman Jackson did not have a good relationship with Governor Blagojevich and therefore determined that the only way he could obtain the appointment was to make his case to the public and put pressure on Blagojevich to appoint him as the best choice for the position. As he told OCE: “The rationale for a public campaign was premised on the fact that Governor Rod Blagojevich and Representative Jackson had a frosty relationship and Representative Jackson assumed as a result of that poor relationship Governor Blagojevich might be hesitant to select Representative Jackson for the seat.” OCE Report, Ex. 6 at 09-9812_000121.

The poor relationship was primarily a result of two issues. First, Congressman Jackson did not support Blagojevich in either of his campaigns for Governor. Despite initially privately informing Blagojevich that he would endorse him in the 2002 Democratic primary campaign, Congressman Jackson ultimately endorsed Blagojevich’s opponent, Roland Burris. Blagojevich won the election and there was tension in their relationship because of Blagojevich’s belief that Congressman Jackson reneged on a promise to endorse him. Congressman Jackson similarly did not endorse Blagojevich during his second campaign and even helped organize a media and advertising issue advocacy campaign focused on the fact that Governor Blagojevich had broken several promises to support the proposed third airport in Peotone, Illinois (the “Third Airport”), a project that Congressman Jackson has actively pursued for several years

Second, and more importantly, Congressman Jackson had a history of rebuffing Blagojevich’s “pay-to-play” politics. As he testified in Blagojevich’s corruption re-trial, Congressman Jackson was asked to contribute \$25,000 to Blagojevich’s campaign in 2001 or 2002. Congressman Jackson thought the amount was excessive and declined. After Blagojevich was elected, he asked Congressman Jackson if there was anything he could do for him. Congressman Jackson mentioned that his wife, Sandi, was an attorney who was interested in public service and seeking employment. Blagojevich told Congressman Jackson to send her resume to Antoin Rezko, an advisor to Blagojevich. Rezko subsequently told Congressman Jackson that Blagojevich was considering Sandi Jackson for a position as head of the Illinois state lottery commission.

Congressman Jackson and his wife heard nothing further about the position, and a few months later, Blagojevich appointed someone else to the lottery position. In 2003, Congressman Jackson spoke with Blagojevich in Washington, D.C., and Blagojevich said he was sorry the “lottery thing” did not work out with Sandi Jackson. Then, as he was leaving the room, Blagojevich turned and, in a move that reminded Congressman Jackson of Elvis, snapped his fingers, pointed at Congressman Jackson, and said, “You should have given me that \$25,000.” Congressman Jackson believed that Blagojevich was clearly referring to the campaign contribution solicitation that Congressman Jackson had rejected.

A few years later, Congressman Jackson rebuffed another “pay-to-play”-type offer by Blagojevich related to the Third Airport. Congressman Jackson was scheduled to meet with

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representatives of the Blagojevich administration and Illinois Department of Transportation (IDOT) on June 25, 2006, at the Four Seasons Hotel in Chicago, to discuss the Third Airport. A few days prior to the meeting, Congressman Jackson's office was notified that no IDOT representative would attend the meeting, and that Rezko would attend on behalf of Blagojevich. The Third Airport was to be funded through private donations and would be controlled by the Abraham Lincoln National Airport Commission (ALNAC). At the meeting, Rezko told Congressman Jackson that Blagojevich wanted to have a voice—including the deciding vote—on the airport commission, in return for his support for the project. At the time, the media had already reported that Rezko and others in Blagojevich's administration were under investigation for alleged corruption. Congressman Jackson was concerned that Blagojevich would attempt to take over the airport commission by offering seats in exchange for large political contributions, and declined Rezko's suggestion.

These events were serious enough that Congressman Jackson contacted the U.S. Attorney's Office for the Northern District of Illinois to report Blagojevich's misconduct. Specifically, after Congressman Jackson learned of testimony during Rezko's corruption trial about another individual obtaining a state job from Blagojevich following a \$25,000 campaign contribution, Congressman Jackson decided to notify the authorities that he had a similar experience with Blagojevich. On April 10 and April 23, 2008, Congressman Jackson spoke by telephone with Assistant U.S. Attorney David Glockner, with his District Director Rick Bryant on the line, and reported the two incidents described above. Congressman Jackson had a follow-up conversation with the U.S. Attorney's Office in the fall of 2008, during which Congressman Jackson agreed to speak in detail with the prosecutors after the upcoming election. Assistant U.S. Attorneys David Glockner and Reid Schar called Congressman Jackson within a day or two following the election and expressed their continued interest in speaking with Congressman Jackson. Congressman Jackson agreed to be interviewed after the appointment process.

Congressman Jackson's contacts with the U.S. Attorney's Office provide important context for the allegations that the Ethics Committee is investigating. It simply makes no sense that Congressman Jackson would have reported Blagojevich's pay-to-play misconduct to the authorities, and agreed to provide a full report to the U.S. Attorney's Office, *at the same time he was engaged in his own purported pay-to-play scheme to obtain the Senate Seat in exchange for campaign contributions.*

B. Congressman Jackson Sought The Senate Seat On The Merits Through A Public Process

Congressman Jackson aspired to be a United States Senator and first gave serious thought to the possibility after it became clear that Barack Obama would be the Democratic candidate for President. Congressman Jackson gave a prominent speech in support of then-candidate Obama at the Democratic National Convention in Denver, Colorado, in late-August 2008. As Congressman Jackson told OCE, "[f]ollowing the speech several members of the Illinois delegation approached him and said he would make a great Senator. Raghuvver P. Nayak, a delegate to the convention, repeatedly referred to Representative Jackson as 'Senator.'" OCE Report, Ex. 6 at 09-9812_000120. Although Congressman

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Jackson was interested in the appointment, at this time he was largely focused on his own re-election and Obama's campaign, which he served as its national co-chairman.

As the election drew closer, Congressman Jackson decided to make a public case for the Senate appointment based on his record in office and his belief that he was the best person for the position with the greatest likelihood of re-election in 2010. Congressman Jackson developed this strategy and did much of the work on his own. His longtime, key congressional aides—Chief of Staff Ken Edmonds and District Director Rick Bryant—were involved as well.¹

Part of the strategy included an email and letter writing effort in which Congressman Jackson sought the assistance of prominent members of the community to voice their support for Congressman Jackson with Blagojevich. In approximately October 2008, Congressman Jackson assembled a standard package of materials relating to his public case for the Senate Seat. This package was put together in anticipation of media inquiries, which were already starting. The package would also double as material that could be sent to supporters. The package included a set of "talking points" summarizing why Congressman Jackson was the best choice to succeed Obama, a summary of Congressman Jackson's congressional record, and a draft letter of support to Blagojevich that was intended to be a template that the supporter could modify. In the talking points, Congressman Jackson warned his supporters about Governor Blagojevich's reputation for shakedowns:

(Background) The Governor is also under federal investigation for pay-to-play scandals for allegedly selling state jobs and contracts to his top campaign contributions. His former top aide (Rezko) was recently convicted of 18 counts in federal court for pay-to-play violations and is now cooperating with prosecutors.

Again, the notion that Congressman Jackson would include this information in a memorandum to his supporters at the same time he was purportedly involved in his own pay-to-play scheme to obtain the Senate Seat makes no sense.

After the package was assembled, whenever he obtained media inquiries or an offer of support, Congressman Jackson would direct his staff to email the package to the reporter or supporter. This involved minimal effort or resources once the materials had been created. Congressman Jackson's staff sent the package of materials to several reporters and prominent supporters, including Bill Cosby, Raghu Nayak, Julian Bond, Alfie Woodard, Reverend Al Sharpton, former-Cook County Commissioner Forrest Claypool, Hunter Biden (Vice President Joe Biden's son), Cook County Commissioner Larry

¹ As set forth in Section II below, Edmonds and Bryant volunteered a limited amount of their own time to this effort while maintaining their normal duties and responsibilities for Congressman Jackson.

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Suffredin, Congressman Hank Johnson, Weldon Latham, Aretha Franklin, Robert Brown, Steve Phillips, Daron Watts, and Illinois State Senator James Meeks.

Another part of the strategy involved Congressman Jackson making media appearances to raise his profile and state his case publicly. To this end, Congressman Jackson made appearances on the “Morning Joe” show, Larry King Live, NPR and MSNBC during the election week, as well as numerous appearances before newspaper editorial boards and on radio talk shows. This media strategy was successful, and Congressman Jackson received endorsements from the *Chicago Sun-Times*, the *Chicago Defender*, and the *Southtown Star*, among others. Congressman Jackson also conducted polling in early-November 2008 that showed he was the most favorable choice in the pool of possible appointees.

Congressman Jackson also sought the assistance of individuals who had relationships with Blagojevich to help him obtain a meeting to make his case personally to the Governor. One such individual was Brian Hynes, a well-connected local attorney. Hynes introduced Congressman Jackson to Victor Roberson, Blagojevich’s deputy chief of staff, who Congressman Jackson understood was to be his point of contact with the Blagojevich administration for purposes of the Senate appointment. Roberson was encouraging but Congressman Jackson did not believe that he had significant influence over the selection process.

Congressman Jackson also received an offer of support from Mark O’Malley, the proprietor of The Chicago Firehouse Restaurant. O’Malley arranged a meeting between Congressman Jackson and Michael Rumman, an area businessman who had connections in the Blagojevich administration. The meeting took place on November 11, 2008, at The Chicago Firehouse Restaurant, and Congressman Jackson sought intelligence on Blagojevich’s selection process and criteria for the Senate appointment. Rumman described Governor Blagojevich as “irrational” and “delusional.” When Congressman Jackson complained that Blagojevich had not set any criteria for the selection process, Rumman said that Blagojevich was “looking for a lifeline.” Congressman Jackson believed Rumman meant that Blagojevich was looking to obtain a job after he left politics. Rumman suggested that no one could offer Blagojevich anything immediately, but suggested that someone could help him if he was not indicted and if he “kept his nose clean” for the next two years. Congressman Jackson said he could not offer anything, stating that this was what got Blagojevich “into trouble in the first place.” Congressman Jackson told Rumman it did not look like he would be the next Senator if that was the criteria.

Rumman agreed to gather additional intelligence for Congressman Jackson. Rumman said he planned to talk to Obama’s friend Eric Whitaker, and might talk to Lon Monk or John Wyma, to get Governor Blagojevich’s opinion on Congressman Jackson. The next day, on November 12, 2008, Congressman Jackson met again with Rumman at the Yolk Restaurant. Rumman said Whitaker told him that Valerie Jarrett would be pulling out of consideration for the Senate Seat. Rumman said Blagojevich did not think he would be charged and planned to run for governor again in 2010. According to Rumman, this increased Congressman Jackson’s chances, because he could make the case that he would draw more African-American voters to the polls for his re-election in 2010, which would

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benefit Blagojevich. Congressman Jackson had no further substantive conversations with Rumman about the Senate appointment process.

Congressman Jackson also sought a meeting with John Wyma, a former aide and political consultant to Blagojevich. Congressman Jackson and Wyma met on December 2, 2008, at the Park Hyatt hotel in Washington, D.C. Congressman Jackson had recently been invited to meet with Governor Blagojevich to discuss the Senate Seat and Congressman Jackson sought Wyma's advice on how to handle the meeting. Wyma asked about Congressman Jackson's relationship with Blagojevich and Congressman Jackson described it as "frosty." Wyma encouraged Congressman Jackson to repair the relationship to build trust with Blagojevich. Wyma also said that Blagojevich was seriously considering businessman J.B. Pritzker for the Senate Seat because Pritzker had the ability to look out for Blagojevich's "long term interests." Congressman Jackson understood this to mean that Pritzker could give Blagojevich a job after politics. Wyma also advised Congressman Jackson to focus on the historical significance of appointing an African-American to the Senate Seat, and to offer political support to Blagojevich in the 2010 election. When Congressman Jackson took a phone call, Wyma wrote these three points on a note and gave it to Congressman Jackson: 1) repair relationship and rebuild trust; 2) discuss historical significance of seat; 3) make the case for re-election or life-after for Governor Blagojevich. Congressman Jackson was depressed after the meeting because he was unwilling to offer Blagojevich any "lifeline" and therefore believed he would not obtain the appointment.

On December 8, 2008, Congressman Jackson met with Blagojevich and his chief of staff John Harris to discuss the Senate appointment. Congressman Jackson presented Blagojevich with a black three-ring binder that included the case for appointing him to the Senate Seat, a summary of his congressional record, his editorial endorsements, other endorsements from politicians and notable public figures, summaries of public opinion polls, and a memorandum on the impact of a possible run for Senate by Jackson in 2010 on the Governor's race. This binder was a summary of the public effort that Congressman Jackson had undertaken for the appointment.

During the meeting, Congressman Jackson began by apologizing to Blagojevich and attempting to repair their relationship, as several people had suggested. Congressman Jackson then proceeded to review the contents of the binder with Blagojevich. The meeting was completely professional and there was no discussion of fund-raising or a "lifeline" at any time. Harris confirmed during his Blagojevich trial testimony that Congressman Jackson did not say anything about money during the meeting. At the conclusion of the meeting, Blagojevich told Congressman Jackson, "you're still in this," and said that they would meet again regarding the appointment. Congressman Jackson had the impression that Blagojevich had taken his apology to heart and was seriously considering him for the appointment. Congressman Jackson left the meeting feeling confident about his chances.

On December 9, 2008, Blagojevich was arrested. Later that day, AUSA David Glockner spoke with Congressman Jackson and Bryant by telephone. Congressman Jackson was distraught over the allegations he had read in the criminal complaint against Blagojevich, and over the fact that the media

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was swarming around his house. During that conversation, however, Congressman Jackson made clear that no one on his behalf had made any improper offer to Blagojevich or his aides in connection with the Senate Seat and stated emphatically that he had not done anything wrong.

C. Congressman Jackson Did Not Direct Or Know Of Any Offer To Raise Campaign Funds For Blagojevich In Exchange For Appointment To The Senate Seat

From the criminal complaint against Blagojevich (as summarized in the OCE Report), audio recordings from a wiretap of Blagojevich's phones, and testimony elicited at Blagojevich's two corruption trials, it is apparent that Blagojevich and his brother, Robert, believed that Congressman Jackson sent an "emissary" to offer campaign funds to Blagojevich in return for appointment to the Senate Seat. The testimony indicated that Raghu Nayak and Rajinder Bedi, who held a position in the Blagojevich administration, met with Congressman Jackson and Rick Bryant at 312 Restaurant in Chicago on October 28, 2008. According to Bedi, there was discussion during the meeting about Congressman Jackson's interest in the Senate Seat, and Nayak said he could raise \$1 million for Blagojevich. Bedi testified that he met with Robert Blagojevich later that afternoon, and told him that Nayak would raise \$1 million for Blagojevich if he appointed Congressman Jackson to the Senate Seat. According to Robert Blagojevich, during an October 31, 2008 meeting, Nayak told him that if Blagojevich appointed Jackson, Nayak would raise \$1 million for Blagojevich by the end of 2008 and another \$5 million after Congressman Jackson became a Senator. Nayak did not testify in either Blagojevich trial.

Congressman Jackson acknowledges meeting with Nayak, Bedi and Bryant on October 28, 2008. Congressman Jackson was told the meeting would relate to the Third Airport and believed Bedi held a high-ranking position in the Blagojevich Administration. (The business card Bedi presented at this meeting stated he was "Managing Director, Office of Trade and Investment, State of Illinois, Illinois Department of Commerce and Economic Opportunity.") The meeting with Bedi and Nayak in fact focused on the Third Airport. On several occasions, their discussion was interrupted by restaurant patrons, many of whom expressed excitement that then-Senator Obama was about to be elected President, which meant his Illinois Senate seat would soon become vacant. Several patrons who visited the table expressed their support for Congressman Jackson to be appointed to that vacancy. At no time during the meeting, however, did Congressman Jackson ever authorize or overhear any offer by Nayak to raise campaign funds for Blagojevich in exchange for the Senate Seat. If in fact Nayak made such an offer to Bedi or subsequently to Robert Blagojevich, Congressman Jackson is deeply disappointed in his former friend. Nayak enjoyed fundraising and socializing with politicians and other powerful people. Congressman Jackson can only assume that Nayak, acting on his own, had the incredibly misguided view that helping Congressman Jackson gain the Senate Seat through an offer of fundraising would raise his own stature and curry favor with Blagojevich. Whatever his reason, Nayak acted on his own and never told Congressman Jackson about any fundraising offer.

Congressman Jackson met Nayak in the late-1990s. Nayak became a close friend of Congressman Jackson and his family. In 2007, Nayak organized a trip for Reverend Jackson and his

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wife to travel to India and accompanied them on the trip. Nayak socialized with Congressman Jackson's brother, Jonathan. Nayak and Congressman Jackson socialized on regular occasions as well. Nayak was welcome in the Jackson home.

Nayak was also a political supporter of Congressman Jackson and a regular fundraiser. Congressman Jackson typically had three major fundraising events per year, two of which were held in March around his birthday and one that was a fall golf outing. Nayak often attended these events, occasionally serving as co-chair, and also brought many supporters to the events. Nayak and his wife personally contributed substantial amounts to Congressman Jackson's campaigns over the years, and raised many more contributions from others.

By the fall of 2008, Congressman Jackson and Nayak were such good friends that they spoke several times a week by telephone. They exchanged text messages. They frequently went out for drinks or meals when Congressman Jackson was in his district or when Nayak came to Washington, D.C.

Nayak began calling Congressman Jackson "Senator" around the time of the Democratic National Convention in late-August 2008. Congressman Jackson did not view Nayak as part of his public effort to gain appointment to the Senate Seat; he was a friend who enjoyed politics and a supporter who wanted to see Congressman Jackson succeed.

On October 8, 2008, Nayak came to Washington, D.C. to attend the signing of the U.S.—India nuclear cooperation agreement at the White House. Nayak was a prominent member of the Indian-American community in Chicago and the agreement related to an issue he cared about. Congressman Jackson's staff helped Nayak obtain an invitation to the White House ceremony. Congressman Jackson socialized with Nayak while he was in town. Following the White House ceremony, they met with a group of people at a local bar. Congressman Jackson's conversations with Nayak that day were largely social. They discussed Congressman Jackson's interest in the Senate Seat, however, and Nayak asked what he could do to help. Congressman Jackson was seeking the support of anyone he could find at that time and asked whether Nayak could help him request a meeting with Blagojevich to discuss the appointment. Nayak agreed to try to help. There was no discussion whatsoever about offering to raise funds for Blagojevich or providing Blagojevich with any other favor in exchange for appointment to the Senate Seat.

On approximately October 22, 2008, Nayak also agreed to assist Congressman Jackson in his efforts by encouraging leaders in the Indian-American business community in Chicago to send letters to Blagojevich in support of Congressman Jackson for the Senate Seat. On October 22, 2008, Congressman Jackson sent an email to Rick Bryant and Ken Edmonds telling them about Nayak's offer of assistance and asking them to send Nayak a model letter of support. OCE Report, Ex. 12, at 09-9812_000235. On October 24, 2008, Edmonds sent Nayak such a draft letter. *Id.*, Ex. 13, at 09-9812_000237-38. This letter was no different than the dozens of form letters that Congressman Jackson sent out to supporters who made similar offers of assistance.

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On October 28, 2008, Congressman Jackson and Rick Bryant met with Nayak and Bedi at the 312 Restaurant in Chicago. Nayak had arranged the meeting with Bedi, whom Congressman Jackson described to Bryant as “the Governor’s economic development guy for the Second Congressional District.” A few days before the meeting, Bryant received an update from an Illinois Department of Transportation official about the status of the Third Airport, who indicated that she would provide more details the following week. Congressman Jackson and Bryant understood that the purpose of the meeting with Bedi was to discuss the Third Airport. It also appeared that there might be renewed interest in the project by the Blagojevich administration given Bryant’s earlier email exchange. Congressman Jackson does not recall meeting Bedi before this meeting. He knew Bedi was involved in economic development for the Blagojevich administration, however, and believed he had responsibility for Congressman Jackson’s district and the Third Airport.

Congressman Jackson, Bryant and Bedi arrived at the restaurant about 15 minutes before Nayak arrived and began discussing the Third Airport. Bryant said he heard the State of Illinois was moving forward on the Third Airport after many months of inactivity. Congressman Jackson shared with Bedi the news that private developers had just renewed their contract to finance the \$400 million project, and that ALNAC was ready to move forward with the State’s blessing. Congressman Jackson told Bedi that the airport project was “good politics” for Governor Blagojevich because it was very popular in the South Side of Chicago and southern suburbs and among African-American voters (where Governor Blagojevich needed political support). Congressman Jackson drew a map of the airport and political strategy on a large paper table cloth, and explained how the municipal commission was the only way to make the airport happen, and that gubernatorial control would not work.

When Nayak arrived, he acknowledged that the airport issue was important but said that “we want you to be Senator,” to which Congressman Jackson relied “that would be a two-fer,” referring to the Third Airport and being appointed to the Senate Seat. There was no discussion among the group about raising funds for Blagojevich’s campaign or making any offer of campaign funds in order to secure the Senate appointment. At the end of the discussion about the Third Airport, the meeting came to an end. While still sitting at the table, Congressman Jackson and Bryant discussed the press conference Congressman Jackson would be conducting later that day with Lieutenant Governor Pat Quinn about the proposed Illinois Constitutional Convention. At the same time, Nayak and Bedi were engaged in discussion across the table, and then left the table and continued their discussion by the front door of the restaurant. Congressman Jackson was not paying attention to and did not overhear their conversation.

Bedi mentioned at the end of the meeting that he planned to speak with Governor Blagojevich later in the day and would discuss the Third Airport with him and report back to Congressman Jackson. Bedi said nothing about a scheduled meeting with Robert Blagojevich later that day. Congressman Jackson has never met Robert Blagojevich and knew nothing at this time about Robert’s relationship to the Governor’s campaign or administration. Bryant called Bedi later that day to follow up but Bedi had

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nothing to report. Neither Congressman Jackson nor Bryant heard from Bedi again about the Third Airport or any other topic.

Congressman Jackson does not recall any specific meetings with Nayak during November 2008 but he continued to have regular contact with him. Congressman Jackson recalls generally that Nayak told him he was trying to arrange a meeting between Congressman Jackson and Blagojevich, as were many other supporters of Congressman Jackson at this time. Nayak and others told Congressman Jackson that if he obtained a meeting, he needed to repair his relationship with Blagojevich and apologize for endorsing Burris in the 2002 primary election. Congressman Jackson did not discuss any fundraising with Nayak and has no recollection of Nayak reporting any specific conversation he had with Blagojevich about Congressman Jackson, other than his advice to apologize for their past differences.

On December 6, 2008, Congressman Jackson's brother, Jonathan, attended a Diwali celebration that the media has portrayed as a fundraiser for Blagojevich. Congressman Jackson was not aware of the event prior to reading about it in the media. He subsequently learned that his father, Reverend Jackson, had been invited to the event by Nayak but asked Jonathan Jackson to attend in his place at the last minute. Jonathan told Congressman Jackson that the event was a holiday celebration, not a fundraiser. The only discussion of the Senate Seat at the event was a joking reference by Blagojevich to Jonathan Jackson as "Senator Jackson." Blagojevich also joked that Jonathan was the one Jackson that he got along with.

Congressman Jackson's last conversation with Nayak occurred on December 9, 2008, the day of Blagojevich's arrest. Congressman Jackson had been trying to figure out the identities of the individuals referenced in the Blagojevich criminal complaint. During a phone call, Congressman Jackson and Reverend Jackson discussed the fact that Nayak might be one of the named individuals. Reverend Jackson conferenced Nayak into the phone call and they asked Nayak if he was one of the individuals referenced in the complaint. Nayak said he was not. Congressman Jackson has not spoken with Nayak since this call.

In sum, Congressman Jackson never had any conversation with Nayak in which Nayak indicated that he would raise money for Blagojevich on Congressman Jackson's behalf in connection with the Senate appointment. Congressman Jackson never suggested to Nayak that he should do so, nor did Nayak propose the idea to Congressman Jackson. Indeed, Congressman Jackson never had any conversation with *anyone* in which it was discussed that he should offer to raise money or hold a fundraiser for Blagojevich in connection with the Senate appointment.

To the extent Nayak and Bedi say otherwise, it bears noting that Nayak and Bedi have significant credibility problems. First of all, given the audio recordings and other evidence elicited at Blagojevich's corruption trials, it appears likely that Nayak and Bedi approached Blagojevich and his brother with an offer of campaign funds and fundraising support in exchange for Blagojevich appointing Congressman Jackson to the Senate Seat. Caught red-handed in a pay-to-play scheme, Nayak and Bedi had obvious

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motivation to mitigate their own exposure by implicating Congressman Jackson, a significantly more high-profile target, in their own scheme. For Bedi, his ploy appears to have worked because he testified under a grant of immunity in Blagojevich's trials.

In addition, Nayak appears to be the subject of a grand jury investigation into allegations that he secretly paid massive kickbacks to dozens of Chicago-area surgeons to draw their procedures to his surgical centers. Natasha Korecki and Dave McKinney, *Grand Jury Checking Out 30 Local Doctors*, CHI. SUN-TIMES, Apr. 12, 2011 (reporting that federal investigators have subpoenaed dozens of surgeons, offered half a dozen grants of immunity to potential witnesses and executed search warrants on Nayak's surgery centers as part of the probe). Bedi recently pleaded guilty to felony retail theft. *Key Witness in Blago Trial Charged With Shoplifting*, CHI. SUN-TIMES, Nov. 8, 2010. Moreover, during the Blagojevich re-trial, Bedi testified that he conspired with Nayak in a check-cashing scheme designed to help Nayak evade income taxes. *Former Rod Blagojevich Fundraiser, Staffer Testify at Retrial*, FOX CHICAGO NEWS (May 11, 2011, 11:42 AM, 10:42 AM), available at http://www.myfoxchicago.com/dpp/news/metro/rod_blagojevich/rod-bлагоjevich-former-gov-rajinder-bedi-jesse-jackson-jr-fundraising-retrial-201005011 (noting that Bedi acknowledged under oath that the scheme netted Bedi hundreds of thousands of dollars in illicit profits).

Finally, of fundamental importance is the fact that the U.S. Attorney's Office for the Northern District of Illinois has not criminally prosecuted Congressman Jackson for any actions arising out of his efforts to gain appointment to the Senate Seat. U.S. Attorney Pat Fitzgerald is among the most aggressive prosecutors in the country. Had there been any credible case that Congressman Jackson engaged in wrongdoing in connection with the Senate appointment, he would have been criminally prosecuted. The fact that he was not speaks volumes to what the U.S. Attorney's Office thinks about the credibility of Nayak's and Bedi's allegations.

Simply stated, Congressman Jackson acted honorably at all times during his public effort to gain appointment to the Senate Seat and engaged in no misconduct whatsoever. Therefore, there was no basis for OCE to conclude that Congressman Jackson may have violated House rules or federal law in connection with his efforts to obtain the Senate appointment. To the extent this Committee concludes otherwise, Congressman Jackson will invoke all of his rights to adversarial process under the Committee's rules and will vigorously defend himself against such unfounded allegations.

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II. CONGRESSMAN JACKSON DID NOT IMPROPERLY USE HIS STAFF AND OFFICIAL RESOURCES TO HELP HIM SEEK APPOINTMENT TO THE SENATE SEAT

In part two of its report, OCE alleges that Congressman Jackson may have misappropriated congressional resources in an effort to secure his appointment to the Senate Seat. OCE Report at 1-2, 17-19. Specifically, OCE contends that two of Congressman Jackson’s senior staff members—Chief of Staff Kenneth Edmonds and District Director Richard Bryant—occasionally assisted Congressman Jackson in his efforts to build public support for his appointment to the Senate Seat. *Id.* at 17-23. OCE asserts that this conduct may have amounted to a misuse of congressional resources that violated House ethics rules and other applicable standards of conduct. *Id.*

On the contrary, the occasional assistance provided by Edmonds and Bryant to further Congressman Jackson’s efforts to obtain the Senate appointment did not violate House rules. Edmonds and Bryant devoted only a handful of hours to this effort over a nearly two-month period, during which time they continued to perform all of their regular staff responsibilities. Congressman Jackson did not alter these responsibilities in any way to make time for Edmonds and Bryant to assist in the Senate appointment effort. Moreover, although some of the activities undertaken by Edmonds and Bryant occurred in Congressman Jackson’s congressional offices using minimal official resources, these activities were analogous to campaign activities that the House Ethics Manual indicates may properly take place in a congressional office. As a result, Edmonds’ and Bryant’s activity was permitted by House ethics rules. And, again, it is worth repeating that this was an appointment process—there was no election or organized political campaign.

A. Congressman Jackson’s Key Aides Volunteered Their Own Time To Assist In The Senate Appointment Effort

The House Ethics Manual provides that “[o]nce House employees have completed their official duties, they are free to engage in campaign activities on their own time,” either as volunteers or paid campaign employees. House Ethics Manual at 135.² “What constitutes a staff member’s ‘own time’ is determined by the personnel policies that are in place in the employing office.” *Id.* at 136. A Member may not, however, “adjust the work requirements of the congressional office, or add unpaid interns during the campaign, in order to create more ‘free’ time for staff to do campaign work.” *Id.*

The House Ethics Manual notes that “the hours that constitute a staff member’s ‘own time’ will not always correspond to evenings and weekends.” *Id.* The Manual acknowledges that:

² The House Ethics Manual further states that such activities may not occur in congressional offices or otherwise use official resources, *id.*, but it exempts certain limited campaign-related activities from this rule. *Id.* at 132-35. As set forth in Section II.B below, the activities in question are analogous to these permissible activities.

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[D]ue to the irregular time frames in which the Congress operates, it is unrealistic to impose conventional work hours and rules on congressional employees. At some times, these employees may work more than double the usual work week – at others, some[what] less. Thus employees are expected to fulfill the clerical work the Member requires during the hours he requires and generally are free at other periods. If, during the periods he is free, he voluntarily engages in campaign activity, there is no bar to this.

Id. (quoting House Comm. on Standards of Official Conduct, *Advisory Opinion No. 2* (July 11, 1973)).

As the OCE Report notes, in the fall of 2008, Congressman Jackson began building public support for his appointment to the Senate Seat. OCE Report at 17. As the OCE Report also makes clear, Congressman Jackson personally handled virtually every aspect of this effort. *See id.* at 17-23. Congressman Jackson decided what strategy would be pursued in seeking the appointment. *Id.* at 18 (“The District Director told the OCE that the Representative concluded that the only way to be selected was to run a ‘public campaign.’”). Congressman Jackson authored the public “case” for why he was qualified for the Senate. *Id.* Moreover, Congressman Jackson did the legwork, personally contacting individuals to build support for his appointment, often without even the awareness of his senior staff. *Id.* (“[A]ccording to the Chief of Staff Representative Jackson was furiously pitching to numerous individuals for support and the Chief of Staff was not aware of every conversation, but he thought he was aware of the significant ones.”). Indeed, as the OCE report makes clear, Edmonds and Bryant are the only two members of Congressman Jackson’s staff who had any meaningful involvement in the appointment effort. *See id.* at 17-23.

Although Edmonds and Bryant occasionally assisted in Congressman Jackson’s appointment efforts, this assistance was limited. Edmonds and Bryant discussed the vacant Senate Seat with the Congressman, helped assemble a packet of materials highlighting the Congressman’s public record and qualifications for the position, emailed the standard package to reporters and supporters identified by Congressman Jackson, and engaged in a few other similarly negligible activities. *Id.* at 17-23. Bryant also attended a press conference at which Blagojevich discussed the process he planned to follow to fill the Senate Seat. *Id.* at 18. Edmonds and Bryant devoted very few hours to the Senate appointment effort over a nearly two-month period.

The time that Edmonds and Bryant volunteered to this effort came on top of the hours they devoted to their regular staff responsibilities, which were unaffected by the appointment effort. During the period at issue, Edmonds and Bryant continued to oversee Congressman Jackson’s legislative responsibilities, supervise the work of other staff members and handle communications with constituents, just as they had before the Senate vacancy. Congressman Jackson did not curtail or alter these regular duties to make time for them to assist in the appointment effort. Indeed, neither Edmonds nor Bryant (nor, for that matter, Congressman Jackson) remotely suggested to the OCE investigators that their regular duties were affected in any way by the Senate appointment effort. *See id.* at 17-23 &

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Exs. 6-8. Put simply, the time Edmonds and Bryant spent helping Congressman Jackson build public support for his appointment to the Senate Seat was their own time, on top of—not at the expense of—the many hours they devoted to fulfilling their regular duties. Accordingly, their assistance did not constitute a misappropriation of Congressional resources.

B. The House Ethics Rules Expressly Permit The Use Of Congressional Resources For Certain Campaign Activities Similar To Those Undertaken By Congressman Jackson’s Aides

The House ethics rules generally prohibit a Member’s staff members from using congressional resources, such as office space and office equipment, for campaign purposes. House Ethics Manual at 123. The House Ethics Manual provides, however, that “there are certain limited activities that, while related to a Member’s campaign, may properly take place in a congressional office.” *Id.* at 132. As the Manual notes, the Committee has taken the view that prohibiting these activities “would be impractical and unnecessary.” *Id.* The limited activities of Edmonds and Bryant to assist Congressman Jackson in the Senate appointment effort were analogous to such permissible activities and, therefore, did not violate any House rules.

For instance, the Manual expressly permits staff members to “coordinate with those in the campaign office who schedule the Member’s campaign appearances.” *Id.* Likewise, “[t]he congressional office may refer to the campaign office letters and other communications and inquiries that it receives concerning the campaign.” *Id.* at 133. Thus, if a congressional office receives a call from a constituent who wishes to volunteer for the Member’s campaign, the office “may provide the constituent with the address and telephone number of the campaign headquarters.” *Id.* The House Ethics Manual further states that “[a] congressional office may provide a campaign office with a copy of any materials that the congressional office has issued publicly, such as press releases, speeches, and newsletters.” *Id.* Accordingly, if a campaign requests from the Member’s office a copy of all statements and releases the Member has issued on a particular issue in order to create a brochure regarding the Member’s position on that issue, the Member’s office may provide the requested material to the campaign. *Id.* at 134.

Although Edmonds and Bryant provided only sporadic assistance in the Senate appointment effort, *see* Section II.A above, Congressman Jackson does not dispute that some of their activities took place in his congressional offices using minimal amounts of official resources. Nonetheless, the activities at issue were analogous to activities that, under the House ethics rules, may properly take place in congressional offices.

For instance, OCE notes that “[w]hen individual citizens would ask how they could help, they would be told to contact the Governor and advocate for Representative Jackson’s selection.” OCE Report at 18. Yet, as previously discussed, the House Ethics Manual permits staff members to respond to similar types of inquiries. House Ethics Manual at 133. Because the “campaigning” in this instance was done by the public rather than by a formal campaign apparatus, individual constituents were not

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referred to a campaign (which did not exist), but were instead encouraged to voice their support for Congressman Jackson directly with the Governor. OCE Report at 18. Nonetheless, the principle remains the same—that providing guidance to a constituent who inquires about how to become involved in the political process does not constitute a misappropriation of Congressional resources.

The OCE Report also faults Edmonds and Bryant for helping to assemble materials supporting Congressman Jackson's appointment to the Senate Seat. *Id.* at 23. This task required a minimal expenditure of time and effort, because the materials drawn upon were largely public documents already within the files of Congressman Jackson's office, such as press releases, speeches and newsletters. Yet, as previously discussed, the House Ethics Manual expressly permits staff members to identify and assemble publicly available materials in their files for use by the campaign. House Ethics Manual at 133-34. Although this was not a traditional campaign, the activities engaged in by Edmonds and Bryant were analogous to those contemplated in the House Ethics Manual. Moreover, the package of materials prepared for Congressman Jackson's supporters was virtually identical to information that Congressman Jackson's staff assembled to respond to media inquiries around the same time—activities that have never been deemed improper "campaigning" by official staff.

Other appointment-related activities identified in the OCE Report include having occasional discussions about the Senate vacancy, emailing an article about Congressman Jackson's public support for appointment to the Senate and fielding a few emails and calls regarding the appointment process. OCE Report at 17-23. These are precisely the type of trivial activities whose restriction would be impractical and unnecessary, the same consideration that led the Committee to carve out the exceptions discussed above. *See* House Ethics Manual at 132. Prohibiting Congressman Jackson and his two key aides from discussing the Senate vacancy or reading an article about the Senate appointment while at the office would be as impractical, inefficient and unnecessary as prohibiting staff members from referring campaign-related queries to the campaign.

To the extent that the Committee concludes that any of the activities engaged in by Edmonds and Bryant in the congressional offices went beyond the exceptions discussed in the House Ethics Manual, such violations were inadvertent and resulted from the novelty of the situation presented by the vacant Senate Seat and subsequent appointment process. Although Congressman Jackson has long had in place office policies (implemented through annual training) enforcing the division of campaign and representational activities, these policies were modeled on provisions of the House Ethics Manual, which understandably focus on traditional re-election campaigns and do not address the novel scenario that faced Congressman Jackson in the fall of 2008. Had Congressman Jackson mounted a traditional campaign for election to the Senate, his established policies would have ensured, for instance, that all campaign communications occurred at campaign offices using campaign resources. These provisions, however, did not apply as clearly to Congressman Jackson's public efforts in the fall of 2008, which

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were informal and did not involve the creation of a separate campaign apparatus, with separate staff, office space and the like.³

* * *

For the foregoing reasons, there is no basis for the Committee on Ethics to conclude that Congressman Jackson violated any House rule in connection with the Senate appointment process. Accordingly, we urge the Committee to reject OCE's recommendation that it further review these allegations and close its investigation of this matter. In the event that the Committee determines that it is obligated to publicly disclose the OCE Report, we respectfully request that you publish a copy of this letter as well.

Please contact us if you have any questions about this letter. Thank you for your consideration.

Sincerely,



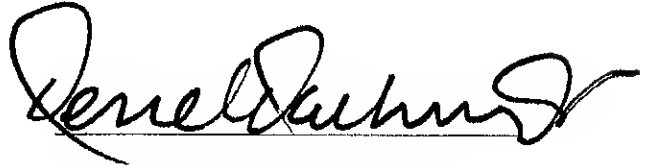
Reid H. Weingarten
Brian M. Heberlig

³ The circumstances present here differ sharply from those underlying the Committee's inquiry into former Representative E.G. "Bud" Schuster, which also concerned the alleged misuse of congressional resources. In that case, the Committee reprimanded the Member for having in place no oral or written personnel rules regarding campaign activities whatsoever, and for permitting his employees to take "administrative leave" whenever they performed campaign work, during which time they continued to receive their full congressional salaries. *See* House Comm. on Standards of Official Conduct, *In the Matter of Rep. E.G. "Bud" Schuster*, H. Rep. 106-979, 106th Cong., 2d Sess. 31 (2000). Here, by contrast, Congressman Jackson had in place established policies enforcing the separation of campaign activities; any problem resulted from the fact that they, like the House Ethics Manual, did not address the novel situation presented by the vacant Senate Seat.

Declaration

I, Representative Jesse Jackson, Jr., declare under penalty of perjury that the response and factual assertions contained in the attached letters dated November 15, 2011, relating to my response to the October 17, 2011 Committee on Ethics request for information, are true and correct.

Signature:

A handwritten signature in black ink, appearing to read "Jesse Jackson Jr.", written over a horizontal line.

Name:

Representative Jesse Jackson, Jr.

Date:

November 15, 2011